

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: James D. Thacker

Appl. No.: 10/020,923

Filing Date: December 19, 2001

Title: METHODS FOR THE RAPID
DETECTION OF ACTIVELY
RESPIRING MICROORGANISMS

Group Art Unit: 1645

Examiner: Khatol S. Shahnam Shah

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Washington, D.C. 20231-1450

Sir:

TERMINAL DISCLAIMER

Applicant, GeneBact Biotechnologies, Inc., is the owner by assignment of one hundred percent (100%) interest in the instant application (10/020,923) and also in U.S. Patent Application No. 09/148,491, which has issued as U.S. Patent No. 6,344,332 ("the 332 Patent"). Applicant hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173.

Applicant further agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the 332 Patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

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In making the above disclaimer, applicant does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173, of the 332 Patent in the event that it later: (i) expires for failure to pay a maintenance fee, (ii) is held unenforceable, (iii) is found invalid by a court of competent jurisdiction, (iv) is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, (v) has all claims canceled by a reexamination certificate, (vi) is reissued, or (vii) is in any manner terminated prior to the expiration of its full statutory term.

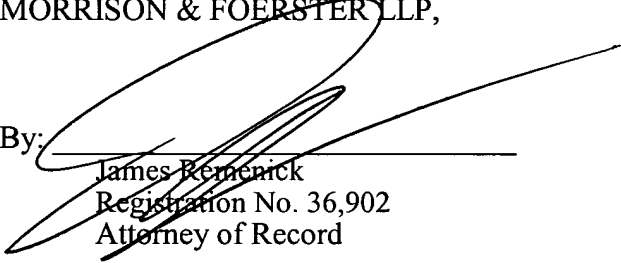
Please charge the requisite small entity, Terminal Disclaimer fee of \$55 to Deposit Account No. 03-1952.

Respectfully submitted

MORRISON & FOERSTER LLP,

Date: August 23, 2004

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